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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/158,764	09/23/1998	MOSHE NATTIV	WNET-00300	4336

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EXAMINER

LUTHER, WILLIAM A

ART UNIT	PAPER NUMBER
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2664

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DATE MAILED: 04/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/158,764

Applicant(s)

NATTIV ET AL.

Examiner

William A. Luther

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 1998.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2,4-5</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1 and 16-20 are rejected under 35 U.S.C. 102(a) as being anticipated by prior art reference BE from the IDS filed on May 12, 1999 (Giganet).

Considering claim 1, Giganet teaches: a metropolitan area network (page 1); an extender device for receiving Ethernet data backs from a computer network coupled to the extender device and for forwarding the same (page 3); a broadcast device coupled to the extender device for receiving the Ethernet data packets from the extender device and having a wireless transceiver for communicating the Ethernet data packets over the wireless link (see also page 3).

Considering claim 16-20, the ordinary artisan would have recognized that Giganet teaches receiving, formatting, and communicating, via microwave, received Ethernet data packets (and Fast Ethernet data packets) from a local area network and/or computer network. See, e.g., page 3.

Considering claim 17, Giganet teaches Fast Ethernet. See id.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 6-10 and 21-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giganet.

Considering claim 6, Giganet teaches the invention (see above) without necessarily teaching a full-duplex data packet regenerator. However, Giganet teaches a (bi-directional) system. Full duplex would have been obvious for the purpose of providing an efficient means of bi-directional communication in that throughput is increase when compared to half duplex. Further, a regenerator would have been obvious for the purpose of restoring the original shape of signaling that may otherwise be distorted due to noise in the transmission path.

Considering claim 7, Giganet teaches a housing coupled to its antenna and suggested bi-directional transceiver. See, e.g., page 3.

Considering claim 8, Giganet suggests cabling of a kind. See, e.g., page 3.

Considering claim 9, Category 5 twisted pair would have been obvious in that it is readily commercially available.

Considering claim 10, Giganet teaches Fast Ethernet data packets. Id.

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Considering claim 21-26, Giganet suggests the invention (see above) without teaching a layer-two switch. However, official notice is taken that a layer-two switch is used to handle faster communication such as that carried on 100BaseT.

Considering claim 27, Giganet suggests the invention (see above) including a media independent interface because it suggests multiple types of communication, i.e., the possibilities of transmitting SDH/SONET (page 1) as well as "integrated ATM with non-ATM services or Fast Ethernet with non Fast Ethernet services" (page 3).

Claims 2-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giganet as applied to claim 1 above in further view of obvious considerations.

Considering claims 2-3, that Giganet teaches the invention (see rejection to claim 1 above) including that it teaches a cable of a kind connected between its extender and broadcast device (e.g., page 3) although there is no teachings as to the type of cable. The use of (Category 5) twisted pair would have been obvious due to its readable availability in the commercial market.

Considering claim 4, Giganet teaches Fast Ethernet. Page 3.

Considering claim 5, Giganet teaches a management system "either through Ethernet or through a serial connection." Page 4. The employment of 10Base-T communication would have been within the level of skill of the ordinary artisan for the purpose of communicating such control data to Giganet broadcast device.

Claims 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giganet.

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Considering claim 11, Giganet teaches the invention (see above) without both full duplex and half duplex related limitations. However, Giganet teaches a (bi-directional) system. Full duplex would have been obvious for the purpose of provide an efficient means of bi-directional communication in that increases throughput when compared to half duplex. The same official notice as that taken for claim 5 is also hereby relied upon. Likewise, the same grounds of obviousness (as applied to claim 5) are relied upon.

Considering claim 12, communication in baseband (rather than modulated GHz signaling) would have been obvious between the extender and broadcast device so as to minimize attenuation of the broadcast signal that would otherwise occur between the extender and broadcast device.

Considering claims 13-15, see above rejections.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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Considering application Claims 1-5 and 16, they are is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 11 of U.S. Patent No. 6,480,477 ('477). Although the conflicting claims are not identical, they are not patentably distinct from each other.

Considering application claim 1, the '477 patent covers details of the application's claimed extender (See, e.g., claim 11, steps a, b, c). Further, the patent covers the details of the application's broadcast device (see, e.g., claim 11, step e). The patent claims data at 100 mega-bits per second. Patent claim 1. This suggests Fast Ethernet.

Considering application claims 2-3, official notice is taken that it was well know to provide Category 5 twisted pair for communication at 100 Mbs. The patent covers 100 Mbs. Patent Claim 11. It would have been obvious to then employ twisted pair for the purpose of employing widely available communication medium designed for transmission at that rate.

Considering application claim 4, official notice is taken that Fast Ethernet communicates at 100 Mbs.

Application claim 5 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 11 of '477 (for the reasons discussed above) in view of Giganet.

Considering application claim 5, '477 suggests the application claim (see above) including a wireless transceiver (claim 11 step e). The patent may not cover the microwave and the housing. However, Giganet suggests both. See, e.g., page 3. It

would have been obvious to employee suggestions of Giganet for the benefit of efficient transport of a high-capacity payload. See Gaganet at page 1.

Application claims 16-18 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-2 of '477.

Considering application Claim 16, the patent suggests the application's receiving (e.g., col 1 step a), formatting (step c), and communicating (step d). See claim 1.

Considering application claim 17, the Patent covers Fast Ethernet. Patent claim 1.

Considering application claim 18, the patent covers a local area network. Patent claim 2.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to William A. Luther whose telephone number is (703) 308-6609. The examiner can normally be reached on Tuesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on (703) 305-4366. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

William Luther
Primary Examiner



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SUPERVISORY PATENT EXAMINER
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